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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,855

03/19/2004

Lauri Paatero

915-008.021

7421

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7590

11/08/2007

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EXAMINER

NALVEN, ANDREW L

ART UNIT

PAPER NUMBER

2134

MAIL DATE

DELIVERY MODE

11/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/804,855

Applicant(s)

PAATERO, LAURI

Examiner

Andrew L. Nalven

Art Unit

2134

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-36.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

1. Applicant argues on pages 2-4 that one of ordinary skill in the art would not have been motivated to combine Rindsberg and Herbert. Examiner respectfully disagrees. Examiner has combined Rindsberg and Herbert in order to modify Rindsberg's unique key that is used to re-encrypt the received patch program. One of ordinary skill in the art would recognize that using different keys increases security. Using only a single key means that if that key is compromised, all data encrypted using the key is compromised. Herbert teaches just such an improvement by disclosing that pages are encrypted before being sent for storage or verification using keys generated by a random number generator (Herbert, column 3 lines 1-15). Herbert provides a clear and distinct motivation to modify a key by rotating that key. Hence, one of ordinary skill in the art would recognize that Herbert's repeated key generation offers the advantage of increasing the strength of the encryption by using multiple keys with smaller data samples (Herbert, column 4 lines 40-46).

2. Further, Applicant asserts that "there is no suggestion in the disclosure of Rindsberg toward having a repeatedly altered unique key." Examiner notes that no disclosure in Rindsberg is required to make a prima facie case of obviousness since Herbert provides the motivation to combine.

3. Further, Applicant cites the MPEP to argue that the proposed modification by the Examiner would change the principle operation of the Rindsberg reference. This is absolutely incorrect. The rotating of a key would not change in any way the operation of the Rindsberg reference other than to use a rotating key as a device identifier. Rindsberg key could still be used to identify the device. The modification would not in any way "change...the basic principle under which the [primary reference] construction was designed to operate." In Re Ratti. 270 F.2d, 810, 812.

4. Applicant further argues that the combination of Rindsberg and Herbert fail to teach a new secret key is generated when the device is booted. Examiner respectfully disagrees. Rindsberg and Herbert teach a new secret key is generated when the device is booted (Herbert, column 4 lines 20-30, random number generator continually generates keying material). Herbert teaches the generation of a new key upon boot by teaching the continuous generation of new key material during the operation of the device. For each application a new key is generated to use in order to secure the application (Herbert, column 4 lines 20-30).

5. Applicant further argues that the combination of Rindsberg and Herbert fails to teach the step of generating a new secret key includes the step of generating a plurality of new secret keys wherein each new secret key is used to encrypt a respective subset of the data. Examiner respectfully disagrees. Rindsberg as modified teaches the step of generating a new secret key includes the step of generating a plurality of new secret keys wherein each new secret key is used to encrypt a respective subset of the data (Herbert, column 4 lines 20-30, random number generator continually generates keying material, column 4 lines 40-46) by teaching at least that for each application a new key is generated to use in order to secure the application (Herbert, column 4 lines 20-30).


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SUPERVISORY PATENT EXAMINER